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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/553,674 | 10/17/2005 | Kaw Yan Chua | 15700.0002 | 1823 |

27890 7590 03/20/2008

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| EXAMINER | |
|---|---|
| ROONEY, NORA MAUREEN | |
| ART UNIT | PAPER NUMBER |
| 1644 | |
| MAIL DATE | DELIVERY MODE |
| 03/20/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/553,674 | CHUA ET AL. | |
| | Examiner | Art Unit | |
| | PHUONG HUYNH | 1644 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *One* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *17 October 2005*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *81-137* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *81-137* are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

I. Claims 81-137 are pending.

II. The following informality is noted. Use Claims 100-101, 103-111, 131 and 132 are interpreted as methods of using for restriction purpose.

### *Election/Restriction*

III. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Invention 1. Claims 82-85 and 98-99, drawn to a **polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 2. Claims 86-87 and 98-99, drawn to a **polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 3. Claims 88-89 and 98-99, drawn to a **polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion

being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 4. Claims 93-99, drawn to a specific **nucleic acid** encoding a polypeptide capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**, vector, DNA vaccine, host cell, transgenic non-human organism and a method of preparing said nucleic acid.

Invention 5. Claims 93-94 and 96-99, drawn to a specific **nucleic acid** encoding a polypeptide capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**, vector, DNA vaccine, host cell, transgenic non-human organism, and a method of preparing said nucleic acid.

Invention 6. Claims 93-94 and 96-99, drawn to a specific **nucleic acid** encoding a polypeptide capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the

immune response is desired, wherein the second portion comprises a specific **tumor antigen**, vector, DNA vaccine, host cell, transgenic non-human organism and a method of preparing said nucleic acid.

Invention 7. Claim 100, drawn to **a method of preparing polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 8. Claim 100, drawn to **a method of preparing nucleic acid encoding polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 9. Claim 100, drawn to **a method of preparing polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 10. Claim 100, drawn to **a method of preparing nucleic acid encoding polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70%

sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 11. Claim 100, drawn to **a method of preparing polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 12. Claim 100, drawn to **a method of preparing nucleic acid encoding polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 13. Claims 101-105, drawn to **a method of treating allergy using polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific allergen.

Invention 14. Claims 101-102, drawn to **a method of treating a specific disease using polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 15. Claims 101-102 and 106-107, drawn to **a method of treating a specific cancer using polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 16. Claims 101-105, drawn to **a method of treating allergy using nucleic acid encoding polypeptide** capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 17. Claims 101-102, drawn to **a method of treating a specific disease using nucleic acid** encoding polypeptide capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises

immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 18. Claims 101-102 and 106-107, drawn to **a method of treating a specific cancer using nucleic acid** encoding polypeptide capable of modulating an immune response against a molecule, the polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 19. Claims 108, 110 and 111, drawn to **a method of stimulating proliferation of $CD3^+$ $CD8^+$ $CD18^+$ bright T cells**, and IL-10 production in CD+3 cells and not stimulates IL-4 and IL-13 in the CD3+ cells **using a polypeptide** comprising an Fve sequence, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 20. Claims 108, 110 and 111, drawn to **a method of stimulating proliferation of $CD3^+$ $CD8^+$ $CD18^+$ bright T cells**, and IL-10 production in CD+3 cells and not stimulates IL-4 and IL-13 in the CD3+ cells **using nucleic acid** encoding a polypeptide comprising an Fve sequence, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 21. Claim 109, drawn to a **method of enriching NK cells in a cell population** using an Fve **polypeptide**, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 22. Claim 109, drawn to a **method of enriching NK cells** in a cell population using a **nucleic acid** encoding a Fve polypeptide, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 23. Claim 109, drawn to a **method of enhancing cytolytic activity of CD16+, CD56+ NK cells** in a cell population using a Fve **polypeptide**, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 24. Claim 109, drawn to a **method of enhancing cytolytic activity of CD16+, CD56+ NK cells** in a cell population using a **polynucleotide** encoding a Fve polypeptide, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 25. Claims 112-113, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **polypeptide** comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 26. Claims 112-113, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **polypeptide** comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a

molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 27. Claims 112-113, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+$ $CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **polypeptide** comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 28. Claims 112-113, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+$ $CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **nucleic acid** encoding polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **allergen**.

Invention 29. Claims 112-113, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+$ $CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **nucleic acid** encoding polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **viral antigen**.

Invention 30. Claims 112-113, drawn to a **method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **nucleic acid** encoding polypeptide comprising: (a) a first portion being an Fve polypeptide (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second portion being a molecule against which the modulation of the immune response is desired, wherein the second portion comprises a specific **tumor antigen**.

Invention 31. Claim 114, drawn to a **method of treating an individual suffering from a specific disease** or preventing the occurrence of a disease in an individual, the method comprising amplifying a $CD3^+CD8^+$ and $CD18^+$ bright T cell by a method according to Claim 112 or 113, and **administering the amplified $CD3^+CD8^+$ and $CD18^+$ bright T cell** to an individual.

Invention 32. Claims 115-124, 129-130 and 134-135, drawn to a **variant Fve polypeptide** comprising a Fve polypeptide having a sequence set out in SEQ ID NO: 6 together with a mutation at position 27 of that sequence, or a mutation at position 29 of that sequence, or both and a pharmaceutical composition comprising such variant Fve polypeptide.

Invention 33. Claims 125-130, drawn to a **nucleic acid capable of encoding a variant Fve polypeptide** and a pharmaceutical composition comprising such nucleic acid.

Invention 34. Claims 131-132, drawn to a **method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to an **Fve polypeptide**, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 35. Claim 131, drawn to **a method of amplifying a sub-population of CD3+, CD8+ and CD18+ cells** wherein the method comprises (a) obtaining a population of cells from an individual; (b) amplifying $CD3^+CD8^+$ and $CD18^+$ bright T cells by exposing the population of cells to a **nucleic acid** encoding a Fve polypeptide, a fragment thereof or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity.

Invention 36. Claims 133, and 136-137, drawn to a **method of modulating an immune response** against a molecule, the method comprising simultaneously or sequentially administering to an individual: (a) a first molecule being an **Fve polypeptide** (SEQ ID NO: 6), a fragment thereof comprising at least 20 amino acids or a polypeptide having at least 70% sequence identity thereto, which polypeptide or fragment comprises immunomodulatory activity; and (b) a second molecule being a molecule against which the modulation of the immune response is desired.

Linking claims 81 and 90-92 will be examined along with inventions 1-3 if any one of said inventions is elected.

Claims 81 and 90-92 link inventions 1-3. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claims, claims 81 and 89-92. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The inventions listed as Inventions 1-36 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

A same or corresponding technical feature shared among Inventions 1-36 is an Fve polypeptide of SEQ ID NO: 6 or fragment thereof that has immunostimulatory activity. However, the reference of Ko et al (of record, J Formos Med Assoc 96(7): 517-524, 1997; PTO 1449) teaches such Fve polypeptide and fragment thereof that has immunostimulatory activity (see entire document, abstract, page 521, in particular).

Thus, the same or corresponding technical feature is not special since it was known in the prior art and therefore cannot make a contribution over the prior art. Since the inventions lack the same or corresponding special technical feature, then the inventions listed as Inventions 1-36 are not so linked as to form a single general inventive concept under PCT Rule 13.1.

IV. Accordingly, Groups 1-36 are not so linked as to form a single general inventive concept and restriction is proper.

V. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

VI. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be considered for rejoinder. All claims directed a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until all claims to the elected product claim are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

VII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (571) 273-8300.

VIII. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phuong Huynh/
Primary Examiner, Art Unit 1644
March 14, 2008